IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10992 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NIRMALABEN WD/O NATWARSINH CHUDASAMA - Petitioners
Versus
DIRECTOR GENERAL AND INSPECTORGENERAL OF POLICE & 1 - Respondents

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Appearance :
MR AMIT J SHAH for Petitioners : 1, 1.2.1, 1.2.2, 1.2.3,1.2.4
MR DIPEN DESAI AGP for Respondents : 1 - 2.
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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 09/03/2006

ORAL JUDGMENT

This petition is preferred under Article 226 of the Constitution of India, seeking writ of mandamus for

considering the case of the petitioner for promotion from the post of Police-sub-Inspector to the post of Police Inspector.

During the pendency of this petition, the petitioner was promoted to the post of Police Inspector vide order dated 2nd September, 1995 and therefore, the question revolved around the controversy that when the petitioner was eligible for promotion during the year 1992, he was denied the same on the ground of pendency of the proceedings. Proceedings have been culminated into exonerating the petitioner and therefore, the promotion has been given to his Juniors and he was denied the same. Unfortunately, the petitioner has passed away during the pendency of the petition in the year 1997 and his heirs are brought on record.

It has transpired during the course of submission that the petitioner was infact, accorded the benefit of higher pay-scale namely that of promotional post way back in the year 1987 vide order dated 10th November, 1994 with effect from 1st June, 1987 and the family pension etc. are calculated on that basis, meaning thereby, the heirs of the petitioner are in no way going to be batter off,

even if they succeed in the matter as the pay-scale of the promotional post was already accorded to the petitioner with effect from 1st June, 1987. The order according the higher pay-scale to the petitioner dated 10th November, 1994 is placed on record by Mr. Desai, learned AGP.

Shri Shah, learned advocate for the petitioner, therefore, submits that in view of this, the court may pass appropriate order disposing the matter.

In view of the aforesaid facts and circumstances of the case and it is a fact that monetary benefits, which would have been admissible, on allowing the petition have already been accrued and given to the petitioner's heirs as per the statement made by Shri Desai at bar, nothing survives in the matter and the same deserves to be disposed of. Accordingly, the petition is disposed of. Rule is discharged.

(S.R.BRAHMBHATT, J.)

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